

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI**

IN RE:)
)
EDWARD & ANGELA GUTTING,) Chapter 13
) Case No. 13-61761-ABF-13
Debtor(s))

MOTION TO DISMISS

The Missouri Department of Revenue, a Creditor herein, in support of its Motion to Dismiss states to the Court as follows:

1. Debtors have failed or refused to file the following tax return with the State of Missouri: 2010 individual income tax return. Any tax due for this tax period is entitled to priority pursuant to 11 U.S.C. § 507(a)(8).

2. This tax return will provide the Missouri Department of Revenue with information necessary for the completion and filing of claims in this bankruptcy proceeding.

3. Debtors' failure to file the aforementioned tax return constitutes an unreasonable delay which is prejudicial to the Missouri Department of Revenue and is grounds for dismissal under 11 U.S.C. § 1307(c)(1).

4. Further, the court pursuant to 11 U.S. C. § 105(a) is given power to issue any order necessary or appropriate to enforce or implement the provisions of Title 11 of the United States Code.

5. The continuation of the bankruptcy estate without the filing of the tax return is not in the best interest of the creditors of this estate; is in violation of the laws of the State of Missouri; and would inequitably treat the State of Missouri by preventing it from receiving the payments to which it is entitled under the Bankruptcy Code.

6. Upon the filing of the above-mentioned tax return or notarized affidavit stating sufficient cause for the non-filing of said return, the Missouri Department of Revenue will withdraw this motion.

WHEREFORE, the Missouri Department of Revenue prays for an order dismissing Debtors' Chapter 13 proceeding, and for such other relief as the Court deems just and proper.

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